

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

**ORDER ON REFUND OF
FEES PAID ELECTRONICALLY**

**ADM-1
ORDER 06-2**

ORDER

In March 2005, the Judicial Conference approved a “guidance” for the refund of fees that are paid electronically. The Conference's policy regarding refunding filing fees, in effect since 1949, has been broadly interpreted to generally prohibit refunds of fees due upon filing, even if a party filed the case in error or the court dismissed the case or proceeding.

With the advent of Case Management/Electronic Case Files (CM/ECF), however, difficulties with the application of the refund policy have greatly increased as filing parties can inadvertently make erroneous or duplicate payments on line. Thus, the “guidance” is an attempt by the Judicial Conference to permit a limited refund authority when user errors in electronic payments are made and is intended to assist the courts in the exercise of their discretion in this area. The guidance does not amend the general refund policy. The guidance further provides that each court's procedures for addressing fee refunds in CM/ECF should be developed by the judges of each court, in conjunction with their clerk, and set forth by local rule or standing order.

The following procedure shall govern requests for a fund of fees paid electronically:

- 1) Judicial Conference policy generally prohibits the refund of fees. Consistent with the Judicial Conference “guidance” on the subject, however, the clerk’s office may refund electronic payments made when no payment was required, that are duplicative of previous payments made, or that exceed the actual amount owed for the transaction.
- 2) Although the authority to approve a refund is a judicial determination, this function shall be delegated to the Clerk of Court, James R. Starr, consistent with the procedures set forth herein.
- 3) Requests for refunds shall be made in writing addressed to the Clerk of Court. Persons denied a refund by the Clerk of Court may seek review by a judicial officer by filing a motion for refund. If the refund relates to a fee associated with an assigned case it will be reviewed by the presiding judge; otherwise, it will be reviewed by the Chief Judge.

4) Refunds shall be processed through the electronic credit card system and no refund shall be issued by check.

5) In the event that a particular attorney or law firm continues to make repeated mistakes when submitting fees electronically, the court may consider remedial action, such as issuing an order to show cause why further requests for refunds should be considered.

SO ORDERED.

Dated: August 28, 2006

/s/ Steven J. McAuliffe
Steven J. McAuliffe
Chief Judge